

Senate Bill 142

By: Senators Harp of the 29th, Unterman of the 45th, Stoner of the 6th and Adelman of the 42nd

A BILL TO BE ENTITLED
AN ACT

To amend Code Section 16-5-23.1 of the Official Code of Georgia Annotated, relating to battery, so as to enhance penalties for an act of family violence; to amend Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to family violence, so as to define certain terms; to create the Georgia Family Violence Offender Registry; to provide for the contents of such registry; to provide for immunity; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Code Section 16-5-23.1 of the Official Code of Georgia Annotated, relating to battery, is amended by revising subsection (f) as follows:

"(f) If the offense of battery is committed between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household, then such offense shall constitute the offense of family violence battery and shall be punished as follows:

(1) Upon a first conviction of family violence battery, the defendant shall be guilty of ~~and punished for a misdemeanor of a high and aggravated nature and shall be punished by incarceration for not less than six months nor more than one year or by a fine of not less than \$500.00 nor more than \$2,500.00 or both; and~~

(2) Upon a second or subsequent conviction of family violence battery against the same or another victim, the defendant shall be guilty of a felony and shall be punished by imprisonment for not less than ~~one~~ two nor more than five years. In no event shall this subsection be applicable to reasonable corporal punishment administered by parent to child."

SECTION 2.

Chapter 13 of Title 19 of the Official Code of Georgia Annotated, relating to family violence, is amended by adding a new article to read as follows:

"ARTICLE 5

19-13-70.

As used in this article, the term:

(1) 'Court' means judges in the classes of courts identified in Title 15 and any other person while acting as such a judge pursuant to designation as otherwise authorized by law.

(2) 'Family violence' means the occurrence of one or more of the following acts between past or present spouses, persons who are parents of the same child, parents and children, stepparents and stepchildren, foster parents and foster children, or other persons living or formerly living in the same household:

(A) Any felony; or

(B) Commission of offenses of battery, simple battery, simple assault, assault, stalking, criminal damage to property, unlawful restraint, or criminal trespass.

The term 'family violence' shall not be deemed to include reasonable discipline administered by a parent to a child in the form of corporal punishment, restraint, or detention.

(3) 'Law enforcement officer' means any agent or officer of this state or a political subdivision or municipality thereof who, as a full-time or part-time employee, is vested either expressly by law or by virtue of public employment or service with authority to enforce the criminal or traffic laws and whose duties include the preservation of public order, the protection of life and property, or the prevention, detection, or investigation of crime. Such term also includes: state or local officer, sheriff, deputy sheriff, dispatcher, 9-1-1 operator, police officer, prosecuting attorney, member of the State Board of Pardons and Paroles, a hearing officer and parole officer of the State Board of Pardons and Paroles, and a probation officer of the Department of Corrections.

(4) 'Prosecuting attorney' means each attorney elected to represent a judicial circuit in this state and any assistant or deputy district attorney or solicitor in each judicial circuit in this state.

(5) 'Registry' means the Georgia Family Violence Offender Registry.

19-13-71.

(a) The Georgia Family Violence Offender Registry shall be created to serve as a searchable data base of persons convicted of an act of family violence in this state. The registry shall be maintained on an Internet website available to the public at all times.

(b) The registry shall be maintained by the Georgia Crime Information Center. The Georgia Commission on Family Violence may consult with the Georgia Crime Information Center regarding the effectiveness of the registry and in creating and maintaining the registry.

(c) The registry shall include the name and photograph of each person convicted of an act of family violence, the offense for which he or she was convicted, and the punishment ordered. Such information shall remain current in the registry for four years after the completion of the offender's sentence.

19-13-72.

(a) The clerk of the sentencing court shall electronically transmit a copy of the sentence, with a photograph of the offender, to the registry as expeditiously as possible but no later than one week after the sentence is imposed.

(b) The Georgia Crime Information Center shall ensure that any conviction information is entered in the registry within 24 hours of receipt of such information from the clerk of court. The inability to enter information for all data fields in the registry shall not delay the entry of available information.

19-13-73.

(a) The state and any local or state law enforcement officer, court official, or official of the registry shall be held harmless for any delay or failure to file conviction information, to transmit information relating to convictions, or to enter such information in the registry.

(b) The state and any local or state law enforcement officer, court official, or official of the registry shall be held harmless for acting in reliance upon information registered in the registry or information received for the purpose of entry in the registry."

SECTION 3.

All laws and parts of laws in conflict with this Act are repealed.